

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION**

IN RE:

BANKRUPTCY CASE NO.: 10-82300

ELENITA UTLEY,

Social Security Nos. xxx-xx-2459 & xxx-xx-6333
Mailing Address: 1608 Nixon Street, , Durham, NC 27707-

DEBTORS

ELENITA UTLEY,

Plaintiffs, A.P. NO.: 11-9042

**UNITED GUARANTY RESIDENTIAL
INSURANCE COMPANY,**

DEFENDANT

JUDGMENT BY DEFAULT

DEFAULT HAS BEEN ENTERED against the Defendant **UNITED GUARANTY RESIDENTIAL INSURANCE COMPANY** by the Clerk of Court in this action to value collateral and to determine the secured status of said claim held by the Defendant. Thereafter, on application of the Plaintiffs, judgment is entered against said Defendant in favor of the Plaintiffs as follows:

1. This matter is a core proceeding pursuant to 28 U.S.C. § 157, and that the court has jurisdiction pursuant to 28 U.S.C. §§ 151, 157 and 1334;
2. The Defendant in this proceeding, and all other parties in interest, were duly served with the Summons and Verified Complaint. The Summons and Verified Complaint were mailed by certified mail on 4/29/11 to the Defendant at each of the following address(es):

UNITED GUARANTY RESIDENTIAL INSURANCE COMPANY, Attn: Managing Agent, at Post Office Box 601860, Charlotte, NC 28260-1860

UNITED GUARANTY RESIDENTIAL INSURANCE COMPANY, Attn: Managing Agent, at Post Office Box 20237, Greensboro, NC 27420-0327

In addition, the Summons and Verified Complaint were mailed to the same Defendant at the same address(es) by regular first-class mail;

3. That the Defendant has failed to answer the Verified Complaint or otherwise defend this adversary proceeding as provided by the Bankruptcy Rules, that the Defendant is not in the military and is neither infant in age nor incompetent, and that the Plaintiffs are entitled to judgment by default;
4. That further, the Defendant has mailed a copy of the Motion for Entry of Judgment by Default by regular first-class mail to the same address as previously listed herein and has failed to file a response thereto;
5. That American General holds a first Deed of Trust on such property with an payoff balance, as of the date this case was filed in the amount of approximately \$71,330.00, as indicated on the proof of claim filed on January 28, 2011. This Deed of Trust originally given to and held by Equity One , Incorporated D/B/A Equity One Mortgage Services, Inc. This Deed of Trust was recorded on March 11, 2008, in Book 5893 at Page 651, Durham County Registry of Deeds.
6. The fair market value of the said property is not greater than \$52,537.00.
7. This action was properly commenced, in accordance with 11 U.S.C. §§ 506, 1322(b)(2), 1325(a)(5) and 1327 (c) of the Bankruptcy Code and Section 7001 of the Bankruptcy Rules, and that there is just cause to grant the relief requested, as it would appear that the claim of UNITED GUARANTY RESIDENTIAL INSURANCE COMPANY, secured by a Deed of Trust (recorded on June 12, 2000 in Book 2850 at Page 43, Durham County Registry of Deeds), is an unsecured claim, and therefore, in accordance with 11 U.S.C. §§ 506(a), 1322(b)(2), 1325(a)(5) and 1327 (c), that the lien imposed by said Deed of Trust is void.

NOW THEREFORE, IT IS THEREFORE ADJUDGED, ORDERED AND DECREED that pursuant to Bankruptcy Rule 7055, the Court hereby orders:

1. That a default judgment be entered against the Defendant;
2. Accordingly, the claim held by UNITED GUARANTY RESIDENTIAL INSURANCE COMPANY is deemed to be an unsecured claim, to be treated as a general unsecured claim in the Plaintiffs' Chapter 13 plan;
3. That UNITED GUARANTY RESIDENTIAL INSURANCE COMPANY shall cancel, pursuant to N.C.G.S. § 45-36.9, said Deed of Trust (recorded on June 12, 2000 in Book 2850 at Page 43, Durham County Registry of Deeds) within thirty (30) days of the entry of the Plaintiffs' discharge pursuant to 11 U.S.C. § 1328(a);

4. That upon the granting of the Plaintiffs' discharge and in accordance with the requirements of N.C.G.S. §47-29, the Register of Deeds for the County of Durham, North Carolina, may record in the office of said Register of Deeds a copy of this order, together with a copy of the discharge order issued in this bankruptcy case upon being presented with certified copies thereof.
5. This Court retains jurisdiction regarding this judgment.

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MIDDLE DISTRICT OF NORTH CAROLINA
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In re:

ELENITA UTLEY,

Bankruptcy Case No.: 10-82300

Social Security Nos. xxx-xx-2459 & xxx-xx-6333
Mailing Address: 1608 Nixon Street, , Durham, NC 27707-

Debtors.

ELENITA UTLEY,

Plaintiffs, A.P. No.: 11-9042

**UNITED GUARANTY RESIDENTIAL
INSURANCE COMPANY,**

Defendant.

SERVICE LIST FOR JUDGMENT BY DEFAULT

Richard M. Hutson, II
Chapter 13 Trustee
Post Office Box 3613
Durham, N C 27702

UNITED GUARANTY RESIDENTIAL
INSURANCE COMPANY
Attn: Managing Agent
Post Office Box 601860
Charlotte, NC 28260-1860

U.S. Bankruptcy Administrator
Post Office Box 1828
Greensboro, N.C. 27401

UNITED GUARANTY RESIDENTIAL
INSURANCE COMPANY
Attn: Managing Agent
Post Office Box 20237
Greensboro, NC 27420-0327

RAYMOND & ELENITA UTLEY
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